

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

OPTUM, INC. and)	
OPTUM SERVICES, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 19-cv-10101-MLW
)	
DAVID WILLIAM SMITH,)	
)	
Defendant.)	
)	

**OPPOSITION OF MEDIA INTERVENORS TO NON-PARTY TCORP62018 LLC'S
"UNOPPOSED MOTION FOR EXTENSION OF TIME"**

Proposed Intervenors Dow Jones & Company, Inc. and Boston Globe Media Partners, LLC (the "Media Intervenors"), submit this opposition to the motion of non-party TCORP62018 LLC, ("ABC"), for an extension of time to oppose the Media Intervenors' motion to intervene and unseal.¹ ABC, which is not a party to this case and has not moved to intervene, asks that it be given an additional seven days to respond to the Media Intervenors' motion for release of the full transcript of the January 31, 2019 temporary restraining order hearing. The basis for ABC's motion is that the Court of Appeals has set a deadline of noon on Thursday, February 14, for defendant David William Smith to oppose a motion for an injunction pending appeal.

Even if the Court recognizes non-party ABC's motion, it should be denied because ABC has failed to show good cause for the seven-day extension it requests. The exigency of the First Circuit's filing deadline may justify a short extension, of no more than 24 hours. However,

¹ ABC styled its motion as "unopposed," even though its counsel did not confer with counsel for the Media Intervenors before filing the motion. Instead, ABC conferred only with the plaintiffs, which have no interest in the question of whether the transcript at issue should be unsealed. (See Motion for Extension of Time at 3 (LR 7.1 Certification)).

nothing in ABC's motion explains why it needs seven days to articulate a reason for continued sealing of the transcript. The requested extension, which is significantly longer than the period the Court originally afforded the parties to respond to the motion to unseal, would "delay[] access to news, and delay burdens the First Amendment." *Globe Newspaper Co. v. Pokaski*, 868 F.2d 497, 507 (1st Cir. 1989).

Accordingly, the Media Intervenors request that the Court take no action on, or deny, non-party ABC's motion. In the alternative, the Media Intervenors request that the Court issue an order allowing an additional 24 hours, until noon on Friday, February 15, 2019, for the filing of any oppositions and affidavits concerning the Media Intervenors' motion. In the event the court enters the latter order, Proposed Intervenors request that they be afforded until 10:00 a.m. on Monday, February 18 to file any reply brief, and that the hearing currently scheduled for 9:30 a.m. on Tuesday, February 19, 2019, remain in place.

Respectfully Submitted,

DOW JONES & COMPANY, INC, and
BOSTON GLOBE MEDIA PARTNERS,
LLC,

By their Attorneys,

/s/ Jeffrey J. Pyle
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CERTIFICATE OF SERVICE

I, Jeffrey J. Pyle, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (“NEF”) and paper copies will be sent to those indicated as non-registered participants on February 12, 2019.

/s/ Jeffrey J. Pyle
Jeffrey J. Pyle